



January 27, 2004

## SENATE BILL No. 202

DIGEST OF SB 202 (Updated January 22, 2004 12:20 pm - DI 102)

**Citations Affected:** IC 22-2; IC 22-5; noncode.

**Synopsis:** Wage payment issues. Provides a procedure for an employer to deduct amounts due to the employer from an employee from unpaid wages due to the employee. Exempts employees who are classified as exempt under the federal Fair Labor Standards Act from the state provisions concerning wage payment. Permits a wage assignment for the payment of uniforms, the payment of tools and equipment, or tuition repayment. Establishes a fee for issuing a replacement payroll check in certain circumstances. Repeals and relocates a provision making it a Class C infraction for an employer to sell merchandise or supplies to an employee for a price higher than the price the merchandise or supplies are sold to the public. Repeals a provision requiring an employer to pay employees in commercial paper. Repeals a duplicate provision concerning frequency of wage payments to employees. Repeals an obsolete provision concerning liens of laborers.

**Effective:** July 1, 2004.

**Young R Michael, Howard, Harrison**

January 8, 2004, read first time and referred to Committee on Pensions and Labor.  
January 26, 2004, amended, reported favorably — Do Pass.

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SB 202—LS 6845/DI 102+



January 27, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 202

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 22-2-5-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a) Except as provided in**  
3 **subsection (b), every such person, firm, corporation, limited liability**  
4 **company, or association who ~~shall fail~~ fails to make payment of wages**  
5 **to any such an employee as provided in section 1 of this chapter shall**  
6 **as liquidated damages for such failure, pay to such the employee for**  
7 **each day that the amount due to him the employee remains unpaid**  
8 **interest at the annual rate of ten percent (10%) of on the amount due**  
9 **to him the employee in addition thereto: not exceeding double the**  
10 **amount of wages due; and said damages to the wages due.**

11       **(b) Upon termination of an employment relationship, the**  
12 **employer shall pay to the employee the unpaid wages minus any**  
13 **amount deducted for amounts applied as due to the employer from**  
14 **the employee.**

15       **(c) At the employee's request, an employer that deducts an**  
16 **amount under subsection (b) shall provide the employee with a**  
17 **written notice itemizing the amounts deducted. The employer shall**

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provide the written notice required by this subsection not later than fourteen (14) days after the date of the employee's request.

(d) The wages, including any amount in disagreement under subsection (b), may be recovered in any court having jurisdiction of a suit to recover the amount due to such the employee, and in any suit so brought to recover said wages or the liquidated damages for nonpayment thereof, or both, the court shall tax and assess as costs in said case a along with reasonable fee for the plaintiff's attorney or attorneys: attorney's fees.

(e) This section does not preclude the employer or employee from recovering other damages to which either is entitled.

SECTION 2. IC 22-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **Employees who are classified as exempt under the Fair Labor Standards Act (29 U.S.C. 201 et seq.),** farmers, and those engaged in the business of agriculture and horticulture shall be specifically exempt from the provisions of this chapter.

SECTION 3. IC 22-2-6-2, AS AMENDED BY P.L.83-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

(1) The assignment is:

(A) in writing;

(B) signed by the employee personally;

(C) by its terms revocable at any time by the employee upon written notice to the employer; and

(D) agreed to in writing by the employer.

(2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

(3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

(1) Premium on a policy of insurance obtained for the employee by the employer.

(2) Pledge or contribution of the employee to a charitable or nonprofit organization.

(3) Purchase price of bonds or securities, issued or guaranteed by the United States.

(4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing

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company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.

(5) Dues to become owing by the employee to a labor organization of which the employee is a member.

(6) Purchase price of merchandise sold by the employer to the employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee subject to the amount limits set forth in section 4(c) of this chapter.

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

(13) A judgment owed by the employee if the payment:

(A) is made in accordance with an agreement between the employee and the creditor; and

(B) is not a garnishment under IC 34-25-3.

**(14) Payment for the purchase or maintenance of uniforms worn by the employee while performing duties for the employer.**

**(15) Payment for the purchase or rental of tools and equipment used by the employee while performing duties for the employer.**

**(16) Payment or repayment of the employee's tuition for:**

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1 (A) a postsecondary educational institution;

2 (B) an apprenticeship training program; or

3 (C) an educational training program;

4 approved by the employer.

5 SECTION 4. IC 22-2-8-1 IS AMENDED TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An employer who deducts  
7 the fee described in section 4 of this chapter does not violate this  
8 section.

9 (b) It is unlawful for any employer to assess a fine on any pretext  
10 against any employee and retain the same or any part thereof from his  
11 the employee's wages.

12 (c) An employer who violates this section commits a Class C  
13 infraction.

14 SECTION 5. IC 22-2-8-4 IS ADDED TO THE INDIANA CODE  
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
16 1, 2004]: Sec. 4. (a) Notwithstanding section 1 of this chapter, an  
17 employer may deduct from an employee's wages a fee computed  
18 under subsection (b) to issue a replacement payroll check at the  
19 written request of the employee because of theft, destruction, or  
20 other loss of the original payroll check after receipt by the  
21 employee.

22 (b) The fee described in subsection (a) is equal to:

23 (1) the amount charged the employer by a financial institution  
24 to stop payment on the original payroll check; plus

25 (2) the lesser of:

26 (A) the employer's reasonable costs incurred to reissue the  
27 payroll check; or

28 (B) twenty dollars (\$20).

29 SECTION 6. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS  
30 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
31 1, 2004]:

# Chapter 6. Employer Sales to Employees

33 Sec. 1. An employer may not sell to an employee of the employer  
34 any:

35 (1) merchandise; or

36 (2) supplies;

37 at a higher price than the employer sells the merchandise or  
38 supplies for cash to another person who is not an employee of the  
39 employer.

40 Sec. 2. A person who violates section 1 of this chapter commits  
41 a Class C infraction.

42 SECTION 7. IC 22-2-4 IS REPEALED [EFFECTIVE JULY 1,

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1 2004].  
2 SECTION 8. [EFFECTIVE JULY 1, 2004] IC 22-2-8-4, as added  
3 by this act, applies to wages first payable after June 30, 2004.

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SENATE MOTION

Madam President: I move that Senator Howard be added as second author of Senate Bill 202.

YOUNG R MICHAEL

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SENATE MOTION

Madam President: I move that Senator Harrison be added as coauthor of Senate Bill 202.

YOUNG R MICHAEL

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## COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 202, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 14, delete ", for a purpose related to the employment, as itemized" and insert ".".

Page 1, delete lines 15 through 16.

Page 1, line 17, delete "If the employer fails to provide the written notice in" and insert "**At the employee's request, an employer that deducts an amount under subsection (b) shall provide the employee with a written notice itemizing the amounts deducted. The employer shall provide the written notice required by this subsection not later than fourteen (14) days after the date of the employee's request.**".

Page 2, delete lines 1 through 2.

and when so amended that said bill do pass.

(Reference is to SB 202 as introduced.)

HARRISON, Chairperson

Committee Vote: Yeas 7, Nays 1.

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